

Senate Bill No. 1281

CHAPTER 150

An act to amend Section 1027 of the Penal Code, relating to criminal procedure.

[Approved by Governor July 17, 2012. Filed with
Secretary of State July 17, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1281, Blakeslee. Criminal procedure: not guilty by reason of insanity.

Under existing law, when a defendant pleads not guilty by reason of insanity, the court is required to appoint at least 2 psychiatrists or licensed psychologists to examine, investigate, and report on the defendant's mental status. The report is required to include certain information, including the psychological history of the defendant and the present psychological or psychiatric symptoms of the defendant.

This bill would require the report to also include the defendant's substance abuse history, his or her substance use history on the day of the commission of the offense, a review of the police report of the offense, and any other credible and relevant material reasonably necessary to describe the facts of the offense.

The people of the State of California do enact as follows:

SECTION 1. Section 1027 of the Penal Code is amended to read:

1027. (a) When a defendant pleads not guilty by reason of insanity the court shall select and appoint two, and may select and appoint three, psychiatrists, or licensed psychologists who have a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, to examine the defendant and investigate his or her mental status. It is the duty of the psychiatrists or psychologists selected and appointed to make the examination and investigation, and to testify, whenever summoned, in any proceeding in which the sanity of the defendant is in question. The psychiatrists or psychologists appointed by the court shall be allowed, in addition to their actual traveling expenses, those fees that in the discretion of the court seem just and reasonable, having regard to the services rendered by the witnesses. The fees allowed shall be paid by the county where the indictment was found or in which the defendant was held for trial.

(b) Any report on the examination and investigation made pursuant to subdivision (a) shall include, but not be limited to, the psychological history of the defendant, the facts surrounding the commission of the acts forming

the basis for the present charge used by the psychiatrist or psychologist in making his or her examination of the defendant, the present psychological or psychiatric symptoms of the defendant, if any, the substance abuse history of the defendant, the substance use history of the defendant on the day of the offense, a review of the police report for the offense, and any other credible and relevant material reasonably necessary to describe the facts of the offense.

(c) This section does not presume that a psychiatrist or psychologist can determine whether a defendant was sane or insane at the time of the alleged offense. This section does not limit a court's discretion to admit or exclude, pursuant to the Evidence Code, psychiatric or psychological evidence about the defendant's state of mind or mental or emotional condition at the time of the alleged offense.

(d) Nothing contained in this section shall be deemed or construed to prevent any party to any criminal action from producing any other expert evidence with respect to the mental status of the defendant. If expert witnesses are called by the district attorney in the action, they shall only be entitled to those witness fees as may be allowed by the court.

(e) Any psychiatrist or psychologist appointed by the court may be called by either party to the action or by the court, and shall be subject to all legal objections as to competency and bias and as to qualifications as an expert. When called by the court or by either party to the action, the court may examine the psychiatrist or psychologist, as deemed necessary, but either party shall have the same right to object to the questions asked by the court and the evidence adduced as though the psychiatrist or psychologist were a witness for the adverse party. When the psychiatrist or psychologist is called and examined by the court, the parties may cross-examine him or her in the order directed by the court. When called by either party to the action, the adverse party may examine him or her the same as in the case of any other witness called by the party.